

THE COLUMBIAN FOUNTAIN.

TUESDAY MORNING, DEC. 16, 1845.

Advertisements will be inserted in this paper at the rate of six cents a line for the first insertion, and three for each subsequent insertion.

We are confident that such a paper as this is perfectly in place at this very time in this city and in the District at large. Indeed, it is proper and right in all places, at this time. It is to be the constant advocate of temperance and morality, and yet contain all that will be interesting and instructive to men of business, and also well worthy the attention and perusal of gentlemen and ladies of leisure. It is not our intention to burden any particular class of readers with too much of what may possibly not be so agreeable to them. Although we may not in many of our numbers have every thing that will please every one, yet we intend to have something to please every one, if they will only have patience to look for it. And it ought to be conceded, that while each one has some claim to accommodation for himself, (because he pays his money and gives his time to read,) there are others that have an equal claim. Therefore, so far as we can do it, consistent with our principles, we shall try to please all, to the profit of each. This is what we are laboring to do in the best way we can, and we will try to do better. Those who read our paper, can and will judge how far we succeed. Already, we have been greatly encouraged by the communications we have received in favor of the paper.

We have been very much encouraged from the fact that we sent papers to every member of both Houses of Congress and to every judge, and but three papers have been returned. We take for granted the rest are all cheerfully received and read with interest. It is with you, gentlemen, to do much in this way for the promotion of virtue. It is the virtue of the people that is to perpetuate our free institutions. You, gentlemen, are in some sort the safe-guards—here is a point where you may all agree, however you may differ in politics, religion, or philosophy. We feel that in making this appeal, we are, perhaps, trespassing upon your patience. But you will indulge us in this matter, our motive being so obvious. We ask your aid. This is no matter of profit to us. Anything that may arise from the paper as a matter of profit will be applied to the erection of a Temperance Hall.

"What have you got in that jug, young man?"

"Cogniac, sir."

"What are you going to do with it?"

"Going to drink it, to be sure. What do you think?"

"Why, I think you had better pour it into the gutter, and take pure water into your stomach. Are you aware that you are poisoning yourself—that every mouthful you swallow is bringing you nearer to the grave?"

"Never heard of such a thing. You must be mistaken, stranger. Why, the oldest men in the village drink it, and have drunk whiskey all their lives. It hasn't poisoned them, I know. Besides, it makes a fellow feel so good. Do take a little, stranger, you look cold."

"Thank you, kindly, for I perceive it is kindly meant, although most unkind. I am a temperance man, pledged to Total Abstinence, and I want you to become one too."

"What, promise never to take a dram—to drink nothing but cold water—can't consent stranger, indeed."

"What good does it do you?"

"It makes me strong. It warms me when I am cold. In the morning, before breakfast, a dram puts life into me. Why, I am good for nothing until I get it. I am so tired when I go to bed—I cannot get sleep enough. I am as limber as a dish-cloth; but when I take a drink of whiskey it livens me up; gives me an appetite, and I can eat like all nature, and work like a horse."

"Do your horses drink whiskey?"

"No, stranger."

"Do your horses work before breakfast?"

"Certain."

"Do they ever need a dram of cogniac to live with you; give them an appetite, or enable them to work like horses?"

"Not that I know of."

"Then you don't work like a horse; for, according to your own confession, you can't work until you get your dram; therefore it is your dram that works, not you."

"Indeed!"

"Of course. You are like a steam engine—it is good for nothing until the steam is up—then it is off. You move by steam—the only difference is you go by drams instead of inches. How many drams will your boiler bear? How many is necessary

to enable you to work 10 hours out of the twenty-four?"

"Look here, stranger, I am no drunkard. Never was drunk in my life. I take a dram morning, noon, and night, regularly. My father did it before me, as did his father before him. It is the custom of the neighborhood. We are all farmers about these parts—the custom has descended from father to son."

"Have you any drunkards about these parts?"

"Plenty of them."

"Who and what are they?"

"Farmers and farmer's sons."

"How often do they drink?"

"As often as they can get it, and sometimes oftener."

"Did they always do this?"

"No, indeed. They were once sober, industrious men. Some of them owned fine farms hereabouts."

"How came they to be so reduced?"

"They got too fond of idle company, lounged about taverns, neglected their crops, and so got into the clutches of the sheriff."

"But you say they were not always so. There must be some cause?"

"Well, stranger, if you must know the cause, they had too great a fondness for cogniac; they drank to excess; spent too much of their time at convivial parties, and finally became the idle loungers they now are."

"They were once sober and industrious, you say?"

"That's a fact."

"That is, they did not drink more than three times a day?"

"Just so."

"Do you expect to be a drunkard?"

"What do you mean by that question?"

"Just what I say."

"Then you meant to insult me."

"Not at all. These men, whom you have pronounced idlers and loungers about taverns, were once as secure, and as sensitive on this subject as you now are, and would have considered the mere suspicion of their becoming drunkards an insult. What security have you against the temptation to increase your drams? You now drink three times a day. You did not always drink that often. There was a time when you did not drink at all. Look where you now are! There is a mortgage on your property."

"How do you know that?"

"You hold the deed in your hand."

"What! this jug?"

"Yes, that jug and its contents."

"Pshaw!"

"Just so your neighbor said, one year before the sheriff sold him out of house and home."

"Pray, sir, who are you?"

"Your friend. I would do you good. Your eyes are closed to the dangers that surround you. I would open them. Just ahead of you is a pit in which thousands have been swallowed up, and thousands more are traveling directly to its brink. Behold! some have arrived at its edge, a moral obliquity obscures their vision—one step further, and then—"

"What then?"

"Then, they drop into the drunkard's grave, whence there is no escape, no hope, no redemption. Friend, you are traveling that road. Let me prevail upon you to stop and think. Let your memory travel back a few years. Try if you can recollect any good that has accrued to you from the use of rum. Then look at the other side, and see if you do not discover much of evil that might have been avoided—much unhappiness that might have been obviated. But whatever you do, resolve never to touch, taste, nor handle, again, the accursed thing."

"Stranger, you are the first man that has spoken to me about this matter. For the first time in my life, I look upon the subject in the light in which you have placed it. I never viewed it so before."

"I am rejoiced to hear you say so. Here is a pledge. Will you sign it at once, and thus place yourself beyond the reach of the tempter?"

"No. But I will reflect seriously upon the subject."

"I shall be this way again in about a week; take this copy of the Pledge home with you; think deeply upon the subject. Let me have the pleasure, when I next see you, of hailing you as one of the redeemed and ransomed. Friend, you may be the means of rescuing from the drunkard's grave many of those men of whom you have spoken—your friends and neighbors. You may restore them to usefulness; make glad the hearts of mothers and children; restore happiness to the heart of the stricken wife, and cause whole families to bless your name who have been reunited by the influence of your example. Will you think of this?"

"I will."

"Well, good bye—I shall see you again next week."

"Halloo, stranger, what's your name?"

"He's off. Well, I shall see him again, I hope."

The Value of the Pledge.

We not only feel persuaded, but know that the pledge is well adapted to the good of mankind universally. Not only does it define a man's true position, as so often reiterated, but exhibits his interest in, and fully develops his regard for social intercourse and personal connection in the promotion of good. It tends to strengthen any resolution he may have formed, destroys, in a great measure, his propensity to drink, checks his natural inclination, and irresistibly elevates him in the scale of moral excellence.

What has the Pledge wrought? We believe that through its power a chord of influence has been touched in favor of morality and religion that will not only vibrate through time, but throughout eternity itself; for that alone can disclose to admiring worlds its redeeming qualities, and the incalculable amount of happiness which will be perpetuated to many of the once suffering sons and daughters of humanity. In imagination we look through the dark vista of the future, and see handed down to generations yet unborn the fruitful benefits resulting from an adherence to this "immortal league of love" that binds us together as a band of brothers. When a nation would erect some grand edifice, whether to commemorate a national triumph or serve a national purpose, ingenious and intelligent men are necessary as well as proper materials. Plan after plan is proposed, diagram after diagram is drawn, until, finally, one is chosen. And in proportion to the skill of the architects and to the value of the materials, just in that proportion will be the beauty, grandeur, and stability of the work. Transfer this idea. Temperance is no new thing, just started for the purpose of catching popular applause, or eliciting the shout of the giddy multitude. Its claims have long been advocated; but the old system contained the very elements that would eventuate in its final subversion and overthrow. In the great work of a perfect reformation, another system was requisite; and in proposing the same to mankind, ingenious minds and noble, patriotic hearts were brought into lively co-operation. After the proposing of drafts upon drafts, plan upon plan, one was finally approved—offering redemption solely upon the ground of Total Abstinence. This is the strongest point, and most important feature in the Pledge. And if we acknowledge that society should be based upon principles of morality and virtue, and that those principles should be as eternal and changeless as the ordinances of heaven, it will for ever bear ample testimony to the value of the Pledge. The revolution it has caused in this country will be recorded as one of the brightest pages in our national history. Let our enemies clamor. We will go forth in the discharge of duty, opposing those habits which are so directly at war with man's temporal and spiritual interest, and which are so positively interdicted both by the law of morals and the law of God. We will raise our Ebenezer long and loud in sounding the praises of this pledge of love, until the air shall be enriched with the melody of its music—the gentle zephyr which has commenced it fan it into a mighty roar—and the very heavens themselves made to ring with the shout of triumph. S. N.

Washington, Dec 8, 1845.

For the Columbian Fountain.

SPEECH

Delivered at the Baptist Church, near the Navy Yard, on the 20th inst., by JAMES LITTLE.

(Concluded.)

The drinker is the most unstable being in the world. And why? Because liquor destroys firmness of purpose—destroys that which is the only thing by which success can be permanently secured. Place, by way of illustration, into the hands of an individual when he is sober, when his mind is free from the power of alcohol, any business of importance, telling him that you desire it to be despatched at a certain hour, that none but he can despatch it, and that your honor depends upon his punctuality. If he perceives the feasibility of the business, and is willing to undertake it, he will consent faithfully to despatch it: and with a firm resolve to accomplish it, he goes in the pursuit after his object. On the way he meets an old companion directly in front of a tavern: the old companion stops, but the man of business passes onward, with merely a "How is it with you to-day, old friend?" The old companion, not liking such treatment, calls after the man of business: "Well, B., are you really the wandering Jew? or have you a cork leg?" "I am

not the wandering Jew, neither have I a cork leg; but I have in hand some business which must be despatched precisely at 12 o'clock; and as the distance through which I have yet to walk is one mile, I cannot now stop." "But," replies the old companion, "you can just step in and take a glass with me, it will not detain you over a minute—come." "Well, yes, I can spare as much time," rejoins the man of business, and I will just step in, take a glass with you, and then hurry on." They enter the tavern and call for the liquor; the man of business drinks his and then hurries to the door, and just as he is about to cross the threshold, the old companion taps him on the shoulder and says, "O! B., have you heard the news?" "No, indeed, what is it?" and then he listens for fifteen minutes to some empty narration. He now asks his old companion to take something with him. They approach the bar and call for the liquor; and whilst the landlord is preparing it, they enter again into conversation, which lasts for sometime. Presently, the man of business looks up at the clock and exclaims, "Good heaven! it wants only five minutes to twelve;" and swallowing the contents of his glass at a gulp, he rushes to the door. The old companion follows him thither, and accosts him thus: "The hour, you say, B., is twelve, and the distance one mile: it now wants only five minutes to twelve: you cannot reach the place in time, and, consequently, it is unnecessary to go. However, do not let me detain you." The man of business thinks for a moment, and replies, "You are right, your reasoning is correct: I cannot reach the place in time, and therefore I will remain: I am sorry for it, but it cannot now be helped." He again approaches the bar and calls for liquor, in order to silence a voice within him which says, "You could have reached the place in time if you had not entered this tavern; if you had not drank that poison, which destroyed your firmness of purpose, you would have saved the honor of your friend." And thus it is always with the drunkard—deluded being! O fool! fool! fool! that man is to allow liquor to pollute and destroy that in which the man only exists—the mind—

"That God-like spring of action, The source whence learning, virtue, honor flow— Which lifts us to the stars, which carries us O'er the swollen waters of the angry deep As swallows skim the air; that fame's sole fountain, That doth transmit a fair and spotless name When the vile trunk is rotten."

If liquor only killed the body then we might excuse it; but it kills the soul, O! it kills the soul. It wafts that immortal bark down the stream of time till it reaches the ocean of oblivion; and there it sinks to rise no more. The effects of liquor on the mental constitution are most deleterious and damning.

I could extend my remarks upon the effects of liquor on the moral constitution. But as you are, ladies and gentlemen, to be highly intellectually entertained by those who are to follow me, I shall conclude my remarks for the present by observing, that if there be, within the sound of my voice, any who are addicted to the dangerous use of intoxicating liquor, let me implore you, by all that is most dear to you, to abandon it at once. Let me prevail on you to come down from the bleak and barren mountains of intemperance, and enter the verdant fields of Total Abstinence. You cannot be unacquainted with the fact that liquor is a poison both to the body and to the soul; that it has brought many innocent women and children to starvation; that it has blighted the prospects of thousands; that it has filled our jails and our penitentiaries; that it has planted the gallows time after time; and that it has given millions to the tomb. Liquor is a curse; and O! great God, launch forth the thunders of thy wrath against it, as thou didst against Sodom of yore, and sweep it, with a besom of destruction, from the earth!

Washington, D. C., Nov. 25, 1845.

CRIMINAL COURT—SATURDAY DEC. 13, 1845.

On motion of Mr. FENDALL, William Rufus Elliott was brought into Court, when, after an argument from that gentleman and an address from General Jones on the same side, the District Attorney also appearing and resisting the motion made for Elliott's immediate discharge on the presentment made by the Grand Jury, which Elliott's counsel contended was an acquittal, the Court delivered the following written opinion:

UNITED STATES VERSUS W. R. ELLIOTT.

The Grand Jury of this county, charged at the present term to inquire into all offenses against the peace and the government of the United States, on the 10th instant returned the following presentment: "The jurors of the United States for the county aforesaid do upon their oaths present Wm. R. Elliott for causing the death of W. Z. Kendall, by shooting him with a pistol in self-defence, when he was attacked by and was retreating from the said Kendall on or about the 23d day of August, 1845."

The defendant has been confined in the jail of the county since the commission of

the homicide—viz. from the 23d of August last—and now, this 13th day of December, 1845, a motion is made by his counsel, P. R. Fendall and Walter Jones Esquires, for his discharge, on the ground that this presentment is equivalent to the finding of "not found," "not a true bill," on an indictment for murder or manslaughter.

A presentment is, strictly speaking, the notice taken by a Grand jury of any offence, from their own knowledge or observation, without any bill of indictment laid before them at the instance of the King, upon which the officer of the Court must afterwards frame an indictment.—4 Blackstone Com. 301; 1 Chitty Criminal Law, 163.

The act of Md., passed November 3, 1722, chap. 4, provides that from and after the publication hereof no attorney general, or clerk of the peace, or of indictments, shall exhibit any bill or bills of indictment to any Grand Jury against any person, whatsoever, without an express order from the Governor or Council, or from the Court where the prosecution is to be, or some one of the Justices of the Court, or unless the offender be bound over to such Court, or that the Grand Jury find or make a presentment of the offence of their own knowledge, upon penalty of paying the party grieved all the damages and charges that shall be occasioned by such prosecution; any law, statute, usage, or custom, to the contrary notwithstanding.

Under this law, a practice has grown up to precede indictments by presentment. This I understand to be the uniform practice at this day, and it has been followed in this instance, the witnesses having been all summoned by the District Attorney at the request of the defendant's counsel, so that the investigation might be made without delay by the Grand Jury, he having no further or otherwise interfered.

The inquiry is, first, whether a presentment acquitting the accused is equivalent to a finding to the same effect on an indictment; and, second, if so, does this presentment amount to an acquittal in law, or have the Grand Jury, on their responsibility, as a most important and the exclusive originators of Judicial criminal proceedings, presented such facts as show that in their judgment no offence, or and excusable one, has been committed by the accused.

1st. The inquiry has been as full as it would have been on an indictment. This the Court is bound to presume, or to suppose, which cannot be done by me, that the Grand Jury, in assuming the high responsibility they have taken, have neglected their duty or misconducted themselves in its discharge. The practice here imposes this full investigation on them before they present; if they think a crime has been committed, they so present, and the indictment follows, and is found, I presume, without any re-examination of the witnesses. I am, therefore, of the opinion that a presentment of crime or the reverse, under the peculiar practice here, is and ought to be equivalent to the action and judgment of a Grand Jury upon a bill of indictment.

2d. Do they present facts which in law amount to an acquittal? Homicide in law, excusable *se defendendo*, is: "If two men fight, and if one of them flies, or if one attacks another, and without fighting he flies, and retreating as far as he can, until at length no means of escaping his assailant remain and he then turn round and kill his assailant in order to avoid destruction, the homicide is excusable in self-defence."—Foster 277; Arch. Pl. and Ev. 391; 4 Black. Com. 183, 1 Russel on crimes, 543—4; 4 Black. Com. 184; "no possible (or at least probable) means of escaping his assailant."

The presentment is: "Wm. R. Elliott, for causing the death of W. Z. Kendall, by shooting him with a pistol in self-defence, when he was attacked by, and was retreating from the said Kendall," &c.

That Wm. R. Elliott caused the death of Wm. Z. Kendall by shooting him—the fact of the homicide is thus found; but they further say he shot him in self-defence—this embodies the substance of the definition of a killing excusable. "Self-defence means to protect from an assault on his life, or to save himself from some great bodily harm; but the Grand Jury go on to say "when he was attacked by, and was retreating from, the said Kendall," thereby, it seems to me, using almost the very terms of the law on the subject.

If (and the Grand Jury so present) it was a case of self-defence, after the accused was attacked, and while he was retreating from, or to avoid the deceased, it would be excusable homicide in the eye of the law.

Suppose the Grand Jury had so found on a bill of indictment, no doubt is or can be entertained that the Court would be bound on such judgment of the Grand Jury to discharge the defendant. The presentment is, under the practice, here equivalent.

I know no responsibility but that which I owe to God and my conscience for an upright discharge of duty. Here, however, there is none but what rests on the Grand Jury, who discharged their duty with conscientiousness and integrity I have neither doubt, nor right to doubt.

I am of opinion the accused is entitled, under the presentment made, to his discharge, and so accordingly order.

The accused, W. R. Elliott, was accordingly discharged from custody, and left the Court-house, accompanied by his relatives, who had anxiously attended the argument and judgment in the case.

THE ORATORIO OF JEPHTHA was performed the fourth time in this city last Tuesday night at Carusi's Saloon. We understand that Mr. Hewitt was again honored with a brilliant and respectable audience, who testified their approbation and delight in the most unequivocal manner. We sincerely hope that when this Oratorio is performed before a New York audience, it may redound to the author's credit as a composer, and be liberally patronized. It is to be brought out, as we are led to understand, under the auspices of the Sacred Musical Society of New York.—Nat. Intel.